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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/822,625	03/30/2001	Srinivas Gutta	US010124	7123

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS  
P.O. BOX 3001  
BRIARCLIFF MANOR, NY 10510

EXAMINER

ENG, GEORGE

ART UNIT PAPER NUMBER

2643

DATE MAILED: 11/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

RM

<b>Office Action Summary</b>	<b>Application No.</b> 09/822,625	<b>Applicant(s)</b> GUTTA ET AL.	
	<b>Examiner</b> George Eng	<b>Art Unit</b> 2643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 September 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2 and 6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/7/2004 has been entered.

### ***Response to Amendment***

2. This Office action is in response to the amendment filed 7/19/2004. Accordingly, claims 3-5 and 7-9 are canceled, and claims 1-2 and 6 are pending for examination.

### ***Double Patenting***

3. Claim 6 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 2. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

***Claim Objections***

4. Claim 1 is objected to because of the following informalities: claim 1, line 13, "a viewer" should be --the viewer--. Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-2 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 11355617A in view of Yamaguchi et al. (US PAT. 5,912,721 hereinafter Yamaguchi) and Lyons et al. (US PAT. 6,411,209 hereinafter Lyons).

Art Unit: 2643

Regarding claim 1, JP11355617A discloses a device (1, figure 5) for controlling a camera having a lens, the device comprising a monitor (10, figure 5) to display a field of view of the lens, which the field of view obviously includes images of a plurality of objects, and touch screen (12, figure 5) operable to provide one or more signal indicative of a viewer pointing on the touch screen in a direction of a first image (56, figure 5) for selectively adjusting various operations including focus and exposure operation (abstract). JP11355617A differs from the claimed invention in not specifically teaching a processor configured to determine the first image of the images of the plurality of objects that is being gaze upon by the viewer by generating an image of the viewer's face, use a pattern recognition technique on the image of the view's face to determine an orientation of the pupils of the viewer's eyes, wherein a recognition of a outer corner of either eye is used as a reference to determine an orientation of the pupils of the viewer's eyes, thereby providing remotely control. However, Yamaguchi teaches a gaze detection apparatus enabling easy and rapid selection of information for use of the user's gaze point information by determining a first image of images of the plurality of object that is being gaze upon by a viewer (figures 30-31 and col. 28 line 38 through col. 29 line 12) by generating an image of the viewer's face and using a pattern recognition technique on the image of the viewer's face to determine an orientation of the pupils of the viewer's eyes (figures 21A-21G and col. 22 line 45 through col. 24 line 53), wherein a recognition of a outer corner of either eye is used as a reference to determine an orientation of the pupils of the viewer's eyes(figures 23a-23b and col. 23 line 65 through col. 24 line 23) in order to determine which location is being seen in information presentation section with respect to the direction of the view line. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was

Art Unit: 2643

made to modify Davis in having the processor configured to determine the first image of the images of the plurality of objects that is being gaze upon by the viewer by generating an image of the viewer's face, use a pattern recognition technique on the image of the view's face to determine an orientation of the pupils of the viewer's eyes, wherein a recognition of a outer corner of either eye is used as a reference to determine an orientation of the pupils of the viewer's eyes, thereby providing remotely control, as per teaching of Yamaguchi, because it enables easy and rapid selection of information for use of the user's gaze point information. Furthermore, neither JP11355617A nor Yamaguchi specifically teaches to configure the processor to extract the first image using a non-parametric model for background subtraction. However, Lyons teaches to use a non-parametric model to extract an image from the field of view for background subtraction in order to provide as output a set of regions, i.e., a specific object, of a video frame in a better quality (col. 4 line 52 through col. 5 line 8). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the combination of JP11355617A and Yamaguchi in configuring the processor to extract the first image using the non-parametric model for background subtraction, as per teaching of Lyons, because it provides as output a specific object of a video frame in a better quality.

Regarding claims 2 and 6, Yamaguchi teaches to selective adjust a pan orientation and a tile orientation of the camera and the zoom and focus of the lens as a function of a movement of the first image (figure 5 and col. 11 line 25 through col. 12 line 16).

Art Unit: 2643

*Response to Arguments*

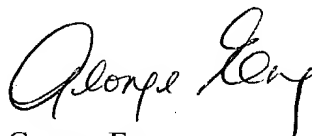
7. Applicant's arguments with respect to claims 1, 2 and 6 have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Eng whose telephone number is 703-308-9555. The examiner can normally be reached on Tue-Fri 7:30 AM-6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis A. Kuntz can be reached on 703-305-4708. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



George Eng  
Primary Examiner  
Art Unit 2643